

REMARKS

Claims 1-83 were in the originally filed application. Claims 1-43, 46-58, and 62-83 were previously withdrawn as being directed to a non-elected invention. Claims 45, 59 and 60 were previously presented, claim 44 is amended herein and claim 61 is cancelled. Applicants have filed an RCE concurrently and will be resubmitting elements from previous IDS's. Applicants thank Examiner for acknowledgement of the remainder of submitted information disclosure statements. Applicants respectfully request reconsideration of the claims in light of the following arguments. Applicants believe that the application is in a condition for allowance.

Claim Objections

Applicants thank the Examiner for the withdrawal of the claim objections and rejections identified in the previous action.

Claim Rejections

Claims 44, 45, 59 and 60 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse. The recitation "efficiently and selectively" has been deleted from claim 44. Claims 44, 45, 59 and 60 are therefore believed to satisfy the requirements of 35 U.S.C. §112, second paragraph.

Claims 44, 45, and 59-61 were rejected under 35 U.S.C. §102(e) as being anticipated by Schultz (US Patent Publication No. 2003/0082575). Applicants respectfully traverse this rejection. Claim 61 has been cancelled. Claim 44 has been amended to recite that the 4HB polypeptide is an agonist. The '575 reference does not produce any 4HB or 4HB polypeptides that have agonist activity. The present application contains examples that show the production of 4HB polypeptides, and the present specification clearly teaches specific amino acid positions to use for selector codon placement. Claims 44, 45, 59 and 60 are therefore believed to be distinguished from the description of the '575 reference.

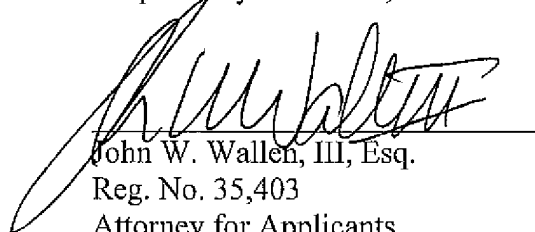
Claims 44, 45, and 59-61 were rejected under 35 U.S.C. §102(e) as being anticipated by Chin (US Patent Publication No. 2005/0009049). Applicants respectfully traverse this rejection. Chin does not produce any 4HB polypeptides, or any 4HB polypeptide agonists. The present application contains examples and detailed description of the placement of selector codons in 4HB polypeptides and the production of 4HB polypeptide agonists. It is therefore believed that claims 44, 45, 59 and 60 are distinguished patentably from the Chin reference under 35 U.S.C. §102(e).

Conclusion

For the reasons given above, and the amendments made herein, it is respectfully submitted that all rejections and objections have been traversed and/or overcome and that the application is now in condition for allowance. If Examiner finds the present claims *not* to be allowable, Applicants hereby respectfully request a telephone interview at Examiner's convenience to discuss the application and amendments further. Applicants may be reached at 858-875-2403. Reconsideration and allowance of the claims is respectfully requested.

Although Applicant believes that no additional fees are due with this submission, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this submission to Deposit Account No. 50-3417.

Respectfully submitted,



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